

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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GENE E. BENCKINI
TA/ BENCKINI NURSERIES

CIVIL ACTION

v.

UPPER SAUCON TOWNSHIP
UPPER SAUCON POLICE DEPT.

NO. 04-4304

FILED

FEB. 15, 2005

FEB 15 2005

MICHAEL E. KUNZ, Clerk
By: [Signature] Dep. Clerk
MOTION FOR LEAVE TO AMEND COMPLAINT

- (1) THE PLAINTIFF, GENE C. BENCKINI, BEING RESIDENT OF LEHIGH COUNTY, LIVING AT 612 LOCUST ST., COOPERSBURG, PA. 18036 & TRADING AS BENCKINI NURSERIES, 5356 OLD BETHLEHEM PIKE, CENTER VALLEY, PA. 18034.
- (2) THE DEFENDANTS UPPER SAUCON TOWNSHIP AND UPPER SAUCON POLICE DEPT., LOCATED AT 5500 CAMPMEETING ROAD, CENTER VALLEY, PA. 18034, A MUNICIPAL CORPORATION.
- (3) ALL OFFICIALS AND POLICE OFFICERS WERE EMPLOYED BY UPPER SAUCON TOWNSHIP MUNICIPALITY RELEVANT TO THIS CASE.
- (4) THIS HONORABLE COURT HAS JURISDICTION OVER THIS MATTER PURSUANT TO 28 USC. 42 USA. 1983 AND FORTH AND THE FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTIONS.
- (5) ON SEPT 13, 2002, UPPER SAUCON POLICE DEPARTMENT CAME TO THE PLAINTIFF'S BUSINESS WITH (4) POLICE CARS AND (6) POLICE OFFICERS, PLAINTIFF WAS SCARED AS TO WHAT WAS HAPPENING, THE OFFICER DAVID PETZOLD HANDCUFFED ME WHILE (2) OTHER OFFICERS PUSHED ME AGAINST THE POLICE CAR, THEY CALLED ME A CHILD MOLESTER, THEY SHOVED ME AGAINST THE POLICE CAR HITTING MY HEAD ON THE ROOF OF THE CAR, MY HANDCUFFS WERE SO TIGHT I HAD TO SIT ON MY WRISTS, THE HAND CUFFS WERE CUTTING INTO MY WRISTS WITH PAIN, PLAINTIFF ASKED WHY THEY WERE ARRESTING HIM, OFFICER DAVID PETZOLD STATED THAT I REFUSED TO PICKUP MY CERTIFIED MAIL, PLAINTIFF REPLIED, I NEVER RECEIVED ANY ANY NOTICES OF CERTIFIED MAIL FROM THE COOPERSBURG POST OFFICE. HE ALSO STATED ANOTHER REASON YOUR BEING ARRESTED IS YOUR MOLESTING NEIGHBORHOOD CHILDREN, PLAINTIFF I NEVER MOLESTED ANY CHILDREN. CHARGES ON SEPT, 13, 2002 WERE DROPPED BY THE D.A.'S OFFICE.

- (6) PLAINTIFF OWNED PROPERTY ADJACENT TO UPPER SAUCON TOWNSHIP SEWAGE TREATMENT PLANT, FOR A PERIOD OF (10) YEARS THE SEWAGE PLANT SPILLED THEIR SEWAGE UNTO PLAINTIFF'S PROPERTY AND A TOTAL DAMAGE TO PLANT LIFE AND STENCH, PLAINTIFF FILED MANY COMPLAINTS WITH UPPER SAUCON TOWNSHIP CONCERNING THIS VIOLATION OF SPILLAGE, THE TOWNSHIP OFFICIALS THREATENED PLAINTIFF - IF THAT IF HE FILED ANY COMPLAINTS WITH THE (DER) THEY WOULD MAKE THINGS TOUGH FOR HIM. THE PLAINTIFF CALLED THE DEPARTMENT OF ENVIRONMENTAL RESOURCES IN HARRISBURG TO ASK WHAT RIGHTS THE PLAINTIFF HAD CONCERNING THIS VIOLATION OF SPILLAGE UNTO HIS PROPERTY, MR. LEE OBERDICK THE PERSON THAT ISSUES THE PERMITS SAID HE WOULD HAVE INSPECTORS SEND OUT AND SHUT THEM DOWN, WHEN PLAINTIFF INFORMED HIM HE WAS IN LEHIGH COUNTY, LEE OBERDICK STATED HE WOULD FORWARD THIS LETTER TO THE WIKES-BARRE DEPARTMENT WHO HANDLES LEHIGH CO. LEE OBERDICK STATED SEND THEM A (30) DAY NOTICE TO CORRECT THE PROBLEM, AND IF THEY DON'T COMPLY, CALL ME AND WE WILL SEND (2) INSPECTORS OUT AND LOCK THEIR GATES UP UNTILL THEY CORRECT THE PROBLEM, UPPER SAUCON TREATMENT PLANT WAS ALSO POLLUTING THE SAUCON CREEK WITH HIGH LEVELS OF AMMONIA. PLAINTIFF WAS AFFRAID TO BLOW THE WHISTLE ON UPPER SAUCON TOWNSHIP BECAUSE OF THE THREATS TO HIM. THE UPPER SAUCON WERE FORCED TO CLOSE THEIR PLANT DOWN ON PRESTON LANE ADJACENT TO PLAINTIFF'S PROPERTY, AFTER THAT CLOSING, UPPER SAUCON TOWNSHIP HIRED A CONCRETE COMPANY TO FILL THE SEWAGE LINE RUNNING ALONG PLAINTIFF'S PROPERTY SO HE COULDN'T BE CONNECTED TO THE NEW SEWAGE PLANT BUILD ON RT 378, CENTER VALLEY. UPPER SAUCON TOWNSHIP RETALIATED AGAINST THE PLAINTIFF BECAUSE OF THE 1.5 MILLION DOLLARS SPEND ON THE NEW PLANT. UPPER SAUCON TOWNSHIP DESTROYED PLAINTIFF'S BUSINESS WITH MALICIOUS SLANDER AND BAGGERING BY THE POLICE DEPTMENT.
- (7) ON MAY 25, 2003 UPPER SAUCO TOWNSHIP FILED AN CONDEMNATION WITH PLAINTIFF'S PROPERTIES OF 15.4 ACRES WHERE HE OPERATED HIS LANDSCAPE AND NURSERY BUSINESS, UPPER SAUCON TOWNSHIP TOOK THE VALUABLE LAND FOR \$412,000.00, WHEN IN FACT THE LAND WAS WORTH AT LEAST \$125,000.00 PER ACRE OR \$1,875,000.00 FOR 15.4 ACRES OF COMMERCIAL LAND SINCE CENTER VALLEY WAS FAST DEVELOPMENTING AND VERY VALUABLE LAND, RIGHT UP THE ROAD A PROPERTY WITH 1.4436 ACRES WITH AN OLD HOUSE ON IT SOLD FOR \$214,000.00 THERE ARE (3) OTHER PROPERTIES JUST LIKE THIS ONE SOLD FOR VERY HIGH PRICES, PLAINTIFF ASKS FOR THE FAIR MARKET PRICE FOR THE 15.4 ACRES PLUS \$140,000.00 FOR ALL THE INVENTORY THAT WAS ON IT PLUS LOSS OF BUSINESS, THE PLAINTIFF PURCHASED THIS VALUABLE LAND FOR HIS RETIREMENT AND FAMILY INHERITANCE FOR PLAINTIFF'S (5) CHILDREN.
- (8) ON JUNE & JULY OF 2003 THE UPPER SAUCON TOWNSHIP HAULED 142 (18) TON TRUCK LOADS OF FILL SOIL UNTO PLAINTIFF'S PROPERTY LOCATED ALONG VERA CREUZ RD, IN UPPER SAUCON TOWNSHIP WHERE PLAINTIFF HAD PLANTED (5,000) TREES FOR INVESTMENT OF FUTURE LANDSCAPING STOCK PLAINTIFF HAD SIGNS PLACED AT THE ENTRANCE TO THIS (10) ACRES OF LAND THAT HE LEASED FOR (10) YEARS, THE TREES WERE OF SPECIMEN SIZE VALUED AT 500/700.000.00. THE UPPER SAUCON TOWNSHIP IGNORED THE NO TRESPASSING SIGNS AND DELIBERATELY AND MALICIOUSLY PLACED THE 142 LARGE TRUCK LOADS OF FILL SOIL, BLOCKING ROAD WAYS AND DIGGING AREAS OF LARGE TREES, ALSO LOADING AREAS, PLAINTIFF SEND A LETTER TO

UPPER SAUCON TOWNSHIP TO REMOVE THE FILL SOIL AND WHAT RIGHT DID THEY HAVE TO BLOCK MY NURSERY BUSINESS, UPPER SAUCON TOWNSHIP NEVER RESPONDED TO PLAINTIFF'S REQUEST. THE 142 TRUCK LOADS ARE PREVENTING THE PLAINTIFF FROM REMOVING HIS SPECIMEN TREES AND A GREAT LOSS TO PLAINTIFF'S BUSINESS.

PLAINTIFF REQUESTS THE HONORABLE COURT TO GRANT DAMAGES FOR LOSS OF THE TRUE VALUE OF 15.4 ACRES OF LAND PLUS LOSS OF INVENTORY AND LOSS OF BUSINESS, PLUS DAMAGES TO MY NURSERY AND LIBEL DAMAGES FOR MALICIOUS SLANDER DESTROYING PLAINTIFF'S BUSINESS.

TOTAL DAMAGES DEMANDED BY PLAINTIFF \$5.5 MILLION DOLLARS

RESPECTFULLY YOURS

GENE C. BENCKINI

Gene C. Benckini
Feb 15, 2005

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CERTIFICATE OF SERVICE

I, GENE C. BENCKINI PRO-SE PLAINTIFF HEREBY STATES THAT A TRUE AND CORRECT COPY OF THE FOREGOING MOTION FOR LEAVE TO AMEND THIS COMPLAINT, WAS SEND ON FEB.15,2005 BY UNITED STATES REGULAR FIRST CLASS MAIL TO THE CLERK OF COURTS OF THE UNITED STATES DISTRICT COURT OF PENNSYLVANIA AND TO COUNSEL OF THE DEFENDANTS WILLIAM J. DEVLIN JR. ADDRESS LISTED BELOW.

WILLIAM J. DEVLIN JR. AND ASSOCIATES
100 WEST ELM STREET
SUITE 200
CONSHOHOCKEN, PA.19428-2041

GENE C. BENCKINI
612 LOCUST ST.
COOPERSBURG, PA 18036

Gene C. Benckini
Feb 15, 2005

FILED

FEB 15 2005

MICHAEL E. KUNZ, Clerk
By *lm* Dep. Clerk